



Schneider
Medicaid

**CABINET FOR HEALTH AND FAMILY SERVICES
DEPARTMENT FOR MEDICAID SERVICES**

Steven L. Beshear
Governor

275 E. Main Street, 6W-A
Frankfort, KY 40621
(502) 564-4321
Fax: (502) 564-0509
www.chfs.ky.gov

Janie Miller
Secretary

Elizabeth A. Johnson
Commissioner

February 18, 2008

Henry A. Waxman
Congress of the United States
House of Representatives
Committee on Oversight and Government Reform
2157 Rayburn House Office Building
Washington, DC 20515-6143

Dear Chairman Waxman:

This letter is in response to your letter of January 16th, 2008 regarding proposed and interim final regulations issued by the Centers for Medicare and Medicaid Services (CMS) which will have a definite detrimental effect of the Kentucky Medicaid Program. We would like to thank the Committee on Oversight and Governmental Reform for this opportunity to comment. We would echo the comments in your letter attributed to the National Association of State Medicaid Directors that implementation of these proposals "will only make life harder for the millions of poor Americans".

In the following paragraphs, we will address the impact of these rules in the order that they appear in your letter. Cost limits for public providers (CMS 2258-FC) would have an annual impact in federal funds loss of between \$21 and \$26 million in each of the next 5 years or \$118 million total over the 5 year period. The primary loss would be in payments that could be made to Public Hospitals who are an essential part of the Health Care safety network in this state. This regulation also has an additional large undetermined administrative burden in that assessments must be made of potentially thousands of medical providers who have any type of relationship with a Governmental Entity.

The payment for graduate medical education (CMS 2270-P) regulation would eliminate an estimated \$24 to \$27 million in federal funds per year over the next 5 years or a total of \$127 million for the 5 year period. As with the previous regulation, the hardest hit provider group are Kentucky's publicly funded University Hospitals which provide the lion's share of indigent hospital care for Kentucky's poorest citizens. The two University Hospitals are also the largest teaching hospitals in the state and they can not afford to lose their Medical Education payments.

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The regulation regarding payment for Outpatient Hospital Services (CMS 2213-P) is the hardest regulation of this group of regulations to determine a direct financial impact. Although the regulation seeks to limit the type or scope of services that could be provided in an Outpatient setting, it appears that similar services would continue to be allowed in other medical settings. Therefore this regulation may just shift the provision of medical services from Outpatient Hospital to another venue. The only cost we could possibly identify would be the administrative burden of revising reimbursement methodologies to eliminate these services from the Outpatient Hospital setting and transferring the services to other medical provider types.

The proposed regulation regarding provider taxes (CMS2275-P) would eliminate \$54 to \$58 million each year in provider tax revenue for Kentucky. This revenue is used to meet the 30% state Medicaid matching requirement. Due to this loss of revenue, Kentucky would be unable to access \$126 to \$135 million annually in federal Medicaid funding. Obviously, cuts in services provided to recipients or even the number of recipients served would have to be considered in order for Kentucky to absorb this large financial impact. For previous regulation described above, the primary impact was upon reimbursement to service providers and the potential for access issues; however, this regulation could have a dramatic and real impact on all of Kentucky's 722,000 Medicaid recipients.

Much like regulation CMS2213-P, it is hard to determine a direct fiscal impact for the proposed regulation regarding coverage of rehabilitative services (CMS 2261-P). Estimates developed by the National Association of State Medicaid Directors indicating that the impact in Kentucky would be approximately \$3 million per year appear to be reasonable. It is intuitive that there will be some impact as CMS continues to carve away at the edges of what is an allowable Medicaid service. Also like other regulations, there will be considerable administrative impact as multiple Kentucky Medicaid programs are reviewed to see if our current covered services meet the new rehabilitation definition.


The regulation regarding payments for cost of school administrative and transportation services (CMS 2287-P) would have a definitive impact on care to Kentucky's 200,000 Medicaid children who are served through this program. Lower income school children often have barriers to identifying medical care needs and obtaining access to medical services. This program provides vital assistance to those Medicaid children. The annual loss of federal funding for this program would be approximately \$13 to \$15 million each year over the next five years.

Finally, the interim final rule on targeted case management (CMS 2237-IFC) is also of great concern. This rule has two primary affects: it prevents a recipient from having more than one case manager even though individuals may have multiple and varying needs for case management assistance, secondly it effectively ends Medicaid payment for case management services provided to foster care and other children who are wards of the state. The first provision would cause the loss of \$16 to \$20 million in federal funds over the five year period. The second provision is much more costly in that it would result in the loss of \$37 million annually in funding for foster care children. Total impact of this regulation over the five year period would be approximately \$200 million dollars.

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Again, thank you for the opportunity to comment on this long list of proposed regulations. These regulations represent a continuation of CMS's efforts over the last four to five years to continually eliminate and scale back needed services for Kentucky's Medicaid recipients which had previously been allowable under longstanding federal regulations. As a note, Kentucky found that the loss of funding projections from the Association of State Medicaid Directors were generally accurate in their representation of the impact upon Kentucky. If we can be of further assistance, please let us know.

Sincerely,

A handwritten signature in black ink, reading "Elizabeth A. Johnson", followed by a horizontal line extending to the right.

Elizabeth A. Johnson
Commissioner

Cc: Neville Wise

EAJ/NW/amd00399